

Bill no.:	<u>Committee Print</u>
H.L.C.	
Amendment no.:	<u>73</u>
Date offered:	<u>4/13/05</u>
Disposition:	<u>Agreed to by VV</u>

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MS. SOLIS OF CALIFORNIA

In section 1522 of title XV, in the amendment adding new subsection (f) to section 9004 of the Solid Waste Disposal Act, in paragraph (1)(A)(i), insert “corrective” before “actions” .

In section 1522 of title XV, in the amendment adding new subsection (f) to section 9004 of the Solid Waste Disposal Act, in paragraph (1)(A) strike clause (iii), insert “or at the end of clause (ii) and redesignate clause (iv) as (iii)” .

In section 1522 of title XV, in the amendment adding new subsection (f) to section 9004 of the Solid Waste Disposal Act, strike paragraph (4).

At the end of section 1522 of title XV, add the following new subsection:

1 (c) ABILITY TO PAY.—Section 9003(h)(6) of the
2 Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is
3 amended by adding the following new subparagraph at the
4 end thereof:

5 “(E) INABILITY OR LIMITED ABILITY TO
6 PAY.—

1 “(i) IN GENERAL.—In determining
2 the level of recovery effort, or amount that
3 should be recovered, the Administrator (or
4 the State pursuant to paragraph (7)) shall
5 consider the owner or operator’s ability to
6 pay. An inability or limited ability to pay
7 corrective action costs must be dem-
8 onstrated to the Administrator (or the
9 State pursuant to paragraph (7)) by the
10 owner or operator.

11 “(ii) CONSIDERATIONS.—In deter-
12 mining whether or not a demonstration is
13 made under clause (i), the Administrator
14 (or the State pursuant to paragraph (7))
15 shall take into consideration the ability of
16 the owner or operator to pay corrective ac-
17 tion costs and still maintain its basic busi-
18 ness operations, including consideration of
19 the overall financial condition of the owner
20 or operator and demonstrable constraints
21 on the ability of the owner or operator to
22 raise revenues.

23 “(iii) INFORMATION.—An owner or
24 operator requesting consideration under
25 this subparagraph shall promptly provide

1 the Administrator (or the State pursuant
2 to paragraph (7)) with all relevant infor-
3 mation needed to determine the ability of
4 the owner or operator to pay corrective ac-
5 tion costs.

6 “(iv) ALTERNATIVE PAYMENT METH-
7 ODS.—The Administrator (or the State
8 pursuant to paragraph (7)) shall consider
9 alternative payment methods as may be
10 necessary or appropriate if the Adminis-
11 trator (or the State pursuant to paragraph
12 (7)) determines that an owner or operator
13 cannot pay all or a portion of the costs in
14 a lump sum payment.

15 “(iii) MISREPRESENTATION.—If an
16 owner or operator provides false informa-
17 tion or otherwise misrepresents their finan-
18 cial situation under clause (ii), the Admin-
19 istrator (or the State pursuant to para-
20 graph (7)) shall seek full recovery of the
21 costs of all such actions pursuant to the
22 provisions of subparagraph (A) without
23 consideration of the factors in subpara-
24 graph (B).”.

